

107TH CONGRESS  
1ST SESSION

# H. R. 2070

To amend the Fair Labor Standards Act of 1938 to exempt certain specialized employees from the minimum wage recordkeeping and overtime compensation requirements.

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## IN THE HOUSE OF REPRESENTATIVES

JUNE 6, 2001

Mr. TIBERI (for himself and Mr. ANDREWS) introduced the following bill;  
which was referred to the Committee on Education and the Workforce

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## A BILL

To amend the Fair Labor Standards Act of 1938 to exempt certain specialized employees from the minimum wage recordkeeping and overtime compensation requirements.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Sales Incentive Com-  
5       pensation Act”.

6       **SEC. 2. EXEMPTION.**

7       Section 13(a) of the Fair Labor Standards Act of  
8       1938 (29 U.S.C. 213(a)) is amended—

1           (1) in paragraph (17), by striking the period  
2           and inserting “; or”; and

3           (2) by adding at the end the following:

4           “(18) any employee employed in a sales position  
5           if—

6                   “(A) the employee has specialized or tech-  
7                   nical knowledge related to products or services  
8                   being sold;

9                   “(B) the employee’s sales are predomi-  
10                  nantly made to persons—

11                           “(i) to whom any employee occupying  
12                           the sales position has made previous sales;  
13                           or

14                           “(ii) without the employee having ini-  
15                           tiated the sales contact;

16                   “(C) the employee has a detailed under-  
17                   standing of the needs of those to whom the em-  
18                   ployee is selling;

19                   “(D) the employee exercises discretion in  
20                   offering a variety of products and services;

21                   “(E) the employee receives—

22                           “(i) base compensation, determined  
23                           without regard to the number of hours  
24                           worked by the employee, of not less than  
25                           an amount equal to one and one-half times

1 the minimum wage in effect under section  
2 6(a)(1) multiplied by 2,080; and

3 “(ii) additional compensation that is  
4 based upon each sale attributable to the  
5 employee;

6 “(F) the employee’s additional compensa-  
7 tion based upon sales attributable to the em-  
8 ployee is not less than 40 percent of the  
9 amount described in subparagraph (E)(i);

10 “(G) the employee receives a rate of com-  
11 pensation based upon each sale attributable to  
12 the employee which is beyond sales required to  
13 reach the compensation required by subpara-  
14 graph (F) which rate is not less than the rate  
15 on which the compensation required by sub-  
16 paragraph (F) is determined; and

17 “(H) the rate of base compensation de-  
18 scribed in subparagraph (E)(i) for any em-  
19 ployee who did not work for an employer for an  
20 entire calendar year is prorated to reflect an-  
21 nual compensation which would have been  
22 earned if the employee had been compensated  
23 at the same rate for the entire calendar year;”.

**1 SEC. 3. RULE OF CONSTRUCTION.**

2       The amendments made by section 2 may not be con-  
3       strued to apply to individuals who are employed as route  
4       sales drivers.

